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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,578	12/30/2003	Giovanni Benini	2001P06859WOUS	8079

7590 01/10/2005

SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPT.  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER
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TRAN, QUOC DUC

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,578

Applicant(s)

BENINI ET AL.

Examiner

Quoc D Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/30/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 9 are objected to because of the following informalities: Claims do not have proper independent claim structure. For example: a proper independent claim must have a preamble, transition (e.g., comprising) and a body. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-8, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Oomuro et al (5,258,979).

Consider claim 1, Oomuro et al teach a communication system for establishing a broadband connection between two or more subscribers by switches in a communication network (see Fig. 18), wherein, on receiving a request from a calling subscriber to establish a broadband connection, the switches set up a minimum connection between said subscribers and, once the minimum connection has been put into operation by the subscribers, establish the required broadband connection (col. 5 lines 11-26).

Consider claim 2, Oomuro et al teach wherein a data stream determined by the calling subscriber is transmitted via the minimum connection (col. 11 lines 39-45).

Consider claim 3, Oomuro et al teach wherein one of the subscribers first initiates the establishment of a minimum connection and thereafter the establishment of the broadband connection (col. 5 lines 11-26; col. 11 lines 6-45).

Consider claim 6, Oomuro et al teach a method for establishing a broadband connection between two or more subscribers in a communication network (see Fig. 18), comprising: establishing a minimum connection between the subscribers by a plurality of switches involved at the request of a subscriber to establish a broadband connection; and establishing a broadband connection between the subscribers by the switches involved after the minimum connection has been put into operation by the subscribers (col. 5 lines 11-26).

Consider claim 7, Oomuro et al teach wherein a data stream determined by the calling subscriber is transmitted via the minimum connection (col. 11 lines 39-45).

Consider claim 8, Oomuro et al teach wherein a calling subscriber first initiates the establishment of a minimum connection and thereafter the establishment of the broadband connection (col. 5 lines 11-26; col. 11 lines 6-45).

Consider claim 11, Oomuro et al teach wherein one of the subscribers first initiates the establishment of a minimum connection and thereafter the establishment of a broadband connection (col. 5 lines 11-26; col. 11 lines 6-45).

Consider claim 14, Oomuro et al teach wherein a calling subscriber first initiates the establishment of a minimum connection and thereafter the establishment of the broadband connection (col. 5 lines 11-26; col. 11 lines 6-45).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saari et al (6,338,046) in view of Smyth et al (6,347,224).

Consider claim 9, Saari et al teach a method for charging for a broadband connection between two or more subscribers in a communication network, wherein subscribers are charged even during the broadband connection (col. 2 lines 1-35).

Saari et al did not clearly suggest charging during the *connection setup phase*. However, Smyth et al suggested various charging settings that include charging during call set-up phase (col. 2 lines 48-51). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Smyth et al into view of Saari et al in order to enable service providers implementing various ways of charging for connections.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saari et al (6,338,046) in view of Smyth et al (6,347,224) and further in view of Kroon (6,816,458).

Consider claim 10, Saari and Smyth et al did not suggest wherein the establishment of the broadband connection has a higher priority in the communication network than the establishment of broadband connections which are not charged (i.e., lower priority) for during the broadband connection setup phase. However, Kroon suggested wherein higher priority requests processed prior to lower priority request (col. 2 lines 64-67). Therefore, it would have been obvious to one

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of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Kroon into view of Saari and Smyth et al in order to meet the quality of services provided to the user.

7. Claims 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oomuro et al (5,258,979) in view of Smyth et al (6,347,224).

Consider claims 4, 12 and 13, Oomuro et al did not suggest wherein subscribers are charged as early as the broadband connection setup phase. However, Smyth et al suggested various charging settings that include charging during call set-up phase (col. 2 lines 48-51). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Smyth et al into view of Saari et al in order to enable service providers implementing various ways of charging for connections.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oomuro et al (5,258,979) in view of Smyth et al (6,347,224) and further in view of Kroon (6,816,458).

Consider claim 5, Oomuro and Smyth et al did not suggest wherein the establishment of the broadband connection has a higher priority in the communication network than the establishment of broadband connections which are not charged (i.e., lower priority) for during the broadband connection setup phase. However, Kroon suggested wherein higher priority requests processed prior to lower priority request (col. 2 lines 64-67). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Kroon into view of Saari and Smyth et al in order to meet the quality of services provided to the user.

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***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Facsimile responses should be faxed to:

**(703) 872-9306**

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive

Arlington, VA., Sixth Floor (Receptionist)

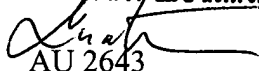
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(703) 306-5643**. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(703) 306-0377**.

**QUOCTRAN**

**PRIMARY EXAMINER**

  
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January 5, 2005